

DEPARTMENT OF THE ARMY  
Wilmington District, Corps of Engineers  
Post Office Box 1890  
Wilmington, North Carolina 28402-1890

**General Permit No. 198200277**  
**Name of Permittee: General Public**  
**Effective Date: July 24, 2000**  
**Expiration Date: December 31, 2004**

**DEPARTMENT OF THE ARMY  
GENERAL (REGIONAL) PERMIT**

A general permit to perform work in or affecting navigable waters of the United States and waters of the United States, upon recommendation of the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of March 3, 1899 (33 U.S.C. 403), and Section 404 of the Clean Water Act (33 U.S.C. 1344), is hereby renewed and modified by authority of the Secretary of the Army by the

District Engineer  
U.S. Army Engineer District, Wilmington  
Corps of Engineers  
Post Office Box 1890  
Wilmington, North Carolina 28402-1890

**TO AUTHORIZE DREDGING AND THE DISCHARGE OF DREDGED OR FILL MATERIAL WITHIN MANMADE BASINS AND CANALS LOCATED ENTIRELY IN HIGH GROUND, INCLUDING CONSTRUCTION AND BACKFILLING OF BULKHEADS WITHIN MANMADE BASINS AND CANALS, AND TO AUTHORIZE MAINTENANCE DREDGING OF DITCHES, BASINS, CANALS AND CHANNELS IN OPEN WATER AREAS, WHERE ALL EXCAVATED MATERIAL IS PLACED AND RETAINED ENTIRELY ON HIGH GROUND, IN THE STATE OF NORTH CAROLINA.**

1. Special Conditions

a. Any excavation authorized by this general permit, new or maintenance, may involve no more than 1,000 cubic yards of material as part of a single and complete project.

b. No excavation or filling of marsh, submerged aquatic vegetation, or other wetlands is authorized. Excavation near wetlands must allow for an adequate buffer (not less than 15 feet) between the excavated area and the wetlands to avoid erosion of the wetlands.

c. Bulkheads with backfill and riprap material must be located no further waterward than 10 feet or an average of 5 feet from the mean high or ordinary high water elevation contour

and landward of any marsh or other wetlands. The placement of excavated or fill material in wetlands is not permitted.

d. All excavated material must be placed and retained entirely on high ground landward of the Corps of Engineers' regulatory jurisdiction and must be retained and stabilized to prevent any material from reentering waters or wetlands.

e. All fill material, including riprap material, discharged into waters of the United States must be suitable material, and material discharge must be free from pollutants in toxic amounts. Use of metal products, organic materials, petroleum base materials, or unsightly debris is prohibited.

f. Prior to commencing work the permittee must present the District Engineer with a written preliminary determination providing reasonable assurance that the proposed discharge is not a carrier of contaminants. This documentation must be a comprehensive analysis of all existing and readily available information on the proposed discharge. Work may not proceed until the permittee has received written approval from the District Engineer.

g. All fill material will be obtained from an upland source.

h. Maintenance excavation must not exceed the original dimensions as defined by the original permit or as clearly shown or otherwise defined by existing conditions of the ditches, basins, canals, or channels. Maintenance excavation is allowed only for facilities that are currently serviceable.

i. No deepening of inland canals or basins, located entirely in high ground, is authorized beyond a depth of six (6) feet below mean or ordinary low water or no deeper than connecting canals/channels.

j. No excavation or filling may occur during the times designated by the North Carolina Division of Coastal Management for protection of fish, shellfish, or wildlife resources. No excavation or filling is authorized in primary nursery or prime shellfish areas as designated by the North Carolina Division of Marine Fisheries and the North Carolina Wildlife Resources Commission.

k. Should all or part of a proposed development activity be located within an Area of Environmental Concern (AEC) as designated by the North Carolina Coastal Resources Commission, a Coastal Area Management Act (CAMA) permit is required from the North Carolina Division of Coastal Management before the onset of the proposed activity. Should an activity within or potentially affecting an AEC be proposed by a Federal agency, a consistency determination pursuant to 15 CFR 930 must be provided to the North Carolina Division of Coastal Management before the onset of the proposed activity.

l. Activities in any mountain trout waters must comply with all pH, temperature and turbidity criteria established for such waters by the North Carolina Wildlife Resources

Commission (NCWRC) and/or the North Carolina Division of Water Quality. Work that may result in the sedimentation of trout waters will generally be prohibited from November 1 to April 15, of any year, to avoid impacts on trout spawning.

m. Before discharging dredged or fill material into waters of the United States, including wetlands, in the twenty-five (25) mountain counties of North Carolina that contain trout waters, the applicant will obtain a letter of approval from the North Carolina Wildlife Resources Commission (NCWRC) and furnish a copy of the letter to the Wilmington District Engineer.

The applicant should contact:

North Carolina Wildlife Resources Commission  
Habitat Conservation Program Manager  
512 North Salisbury Street  
Raleigh, North Carolina 27611  
Telephone (919) 733-7638

The counties in which this condition applies are:

Alleghany	Ashe	Avery
Buncombe	Burke	Caldwell
Cherokee	Clay	Graham
Haywood	Henderson	Jackson
Macon	Madison	McDowell
Mitchell	Polk	Rutherford
Stokes	Surry	Swain
Transylvania	Watauga	Wilkes
Yancey		

n. All work will comply with the applicable Clean Water Act Section 401 Water Quality Certification for this general permit issued by the North Carolina Division of Water Quality. Proposed fill or substantial modification of waters or wetlands for the general certification requires written concurrence from the North Carolina Division of Water Quality.

o. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

## 2. General Conditions

a. All activities authorized by this general permit that involve the discharge of dredged or fill material in waters of the United States will be consistent with applicable water quality standards, effluent limitations and standards of performance, prohibitions, pre-treatment standards and management practices established pursuant to the Clean Water Act (33 U.S.C. 1344) and applicable State and local law. If the proposed activity involves the discharge of dredged or fill material in waters of the United States, prior to the commencement of any work, the applicant will satisfy the North Carolina Division of Water Quality regarding the need for a Water Quality Certification pursuant to Section 401 of the Clean Water Act.

b. There will be no unreasonable interference with navigation or the right of the public to riparian access by the existence or use of activities authorized by this general permit.

c. A permittee, upon receipt of written notice from the Wilmington District Engineer of failure to comply with the terms or conditions of this general permit, will, within 60 days, without expense to the U.S. Government, and in such manner as the Wilmington District Engineer may direct, affect compliance with the terms and conditions or return the worksite to a pre-work condition.

d. The permittee must make every reasonable effort to perform the work authorized herein in a manner so as to minimize any adverse impact on fish, wildlife and natural environmental values.

e. The permittee must perform the work authorized herein in a manner so as to minimize any degradation of water quality. The activity will be conducted in such a manner as to prevent a significant increase in turbidity outside the area of construction or construction-related discharge. Increases such that the turbidity in the water body is 50 NTU's or less in all rivers not designated as trout waters by the North Carolina Division of Water Quality, 25 NTU's or less in all saltwater classes and in all lakes and reservoirs, and 10 NTU's or less in trout waters, are not considered significant.

f. The permittee will permit the Wilmington District Engineer or his representative to make periodic inspections at any time deemed necessary in order to assure that the activity is being performed or maintained in strict accordance with the Special and General Conditions of this permit.

g. This general permit **does not** convey any rights, either in real estate or material, or any exclusive privileges; and it does not authorize any injury to property or invasion of rights or any infringement of Federal, State or local laws or regulations, nor does it obviate the requirement to obtain State or local assent required by law for the activity authorized herein. These may include, but are not necessarily limited to, a Dredge and/or Fill Permit (N.C.G.S. 113-229), a Coastal Area Management Act (CAMA) Permit (N.C.G.S. 113A-118), an Easement to Fill (N.C.G.S. 146-12) and a Water Quality Certification pursuant to Section 401 of the Clean Water Act.

h. Authorization provided by this general permit may be either modified, suspended or revoked in whole or in part if the Wilmington District Engineer, acting on behalf of the Secretary of the Army, determines that such action would be in the best public interest. Unless subject to modification, suspension or revocation, the term of this general permit shall be five years. Any modification, suspension or revocation of this authorization will not be the basis for any claim for damages against the U.S. Government.

i. This general permit does not authorize the interference with any existing or **future** Federal project and the permittee will not be entitled to compensation for damages or injury to the structures or work authorized herein which may be caused by or result from existing or future operations undertaken by the United States in the public interest.

j. This general permit will not be applicable to proposed construction when the Wilmington District Engineer determines that the proposed activity would significantly affect the quality of the human environment and determines that an Environmental Impact Statement (EIS) must be prepared.

k. This general permit will not be applicable to proposed construction when the Wilmington District Engineer determines, after any necessary investigations, that the proposed activity would adversely affect areas which possess historic, cultural, scenic, conservation or recreational values. Application of this exemption applies to:

(1) Rivers named in Section 3 of the Wild and Scenic Rivers Act (15 U.S.C. 1273), those proposed for inclusion as provided by Sections 4 and 5 of the Act and wild, scenic and recreational rivers established by State and local entities.

(2) Historic, cultural or archeological sites listed in or eligible for inclusion in the National Register of Historic Places as defined in the National Historic Preservation Act of 1966 and its codified regulations, the National Historic Preservation Amendment Acts of 1980 and 1992, the Abandoned Shipwreck Act of 1987 and the Native American Graves Protection and Repatriation Act.

(3) Sites included in or determined eligible for listing in the National Registry of Natural Landmarks.

(4) Endangered or threatened species or habitat of such species as determined by the Secretaries of Interior or Commerce and concerned in accordance with the Endangered Species Act (16 U.S.C. 1531). This general permit **does not authorize** activities that would adversely affect Federally listed endangered or threatened species. The Wilmington District's Regulatory field offices have a list of important aquatic sites in which Federally listed aquatic species are known to occur. This listing can be accessed on the Wilmington District Internet homepage at the following address: <http://www.saw.usace.army.mil/wetlands/regtour.htm> . The permittee must contact the appropriate field office before beginning work to determine if the

proposed action will affect any Federally listed aquatic species.

l. Permittees are advised that development activities in or near a floodway may be subject to the National Flood Insurance Program which prohibits any development, including fill within a floodway that results in any increase in base flood elevations of greater than one (1) foot.

m. At his discretion, the Wilmington District Engineer may determine that this general permit will not be applicable to a specific construction proposal. In such case, the procedure for processing an individual permit in accordance with 33 CFR 325 will be available.

n. The permittee or the permittee's successors will maintain the authorized work in good condition and in conformance with the terms and conditions of the general permit.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

James W. DeLony  
Colonel, U.S. Army  
District Engineer